

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

CHABRE NATHANIEL JOHNSON,

Petitioner,

vs.

SCOTT R. FRAKES,

Respondent.

**8:22CV68**

**MEMORANDUM AND ORDER**

Petitioner has moved pursuant to 28 U.S.C. §§ 144 and 455 for my recusal based on my previous rulings in this matter. (Filing 21.)

Petitioner's motion for recusal will be denied. A legally sufficient affidavit supporting a motion for recusal must allege bias or prejudice, and such bias or prejudice must stem from an extrajudicial source. *United States v. Faul*, 748 F.2d 1204, 1211 (8th Cir. 1984). That is, "bias or prejudice" does not include opinions held by judges acquired in the course of the proceedings, nor does it include opinions held as a result of what judges learned in earlier proceedings. *Liteky v. United States*, 510 U.S. 540, 551 (1994). A party is not entitled to recusal even when a judge is exceedingly ill-disposed toward him, where the judge's knowledge and the opinion it produced were properly and necessarily acquired in the course of the proceedings. *In re Steward*, 828 F.3d at 682; *see United States v. Rubashkin*, 655 F.3d 849, 858 (8th Cir. 2011). And judicial rulings rarely establish a valid basis for recusal.<sup>1</sup> *United States v. Melton*, 738 F.3d 903, 906 (8th Cir. 2013). Here, Petitioner's accusations are premised entirely on perceived unfavorable rulings in this matter, which are neither extrajudicial, nor indicative of bias. *See United States*

---

<sup>1</sup> I note, for the sake of completeness, that counsel for Respondent has not prepared and submitted any orders to my chambers for my review and use in this case, contrary to Petitioner's assertions in his affidavit. My chambers and I have prepared and entered all orders in this case.

*v. Larsen*, 427 F.3d 1091, 1095 (8th Cir. 2005); *see also United States v. Martin*, 757 F.3d 776, 778 (8th Cir. 2014).

IT IS THEREFORE ORDERED that: Petitioner's Motion for Recusal (filing 21) is denied.

Dated this 6th day of October, 2022.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge